IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2301 OF 2005

Jagruti Co-operative Hsg. Soc. Ltd. .. .. Petitioners

Versus

The Deputy Registrar of Co-operative Societies G/N Ward, Mumbai & Ors. .. .. Respondents

Mr. S.D. Mulye for the Petitioner.

Mr. P.G. Sawant, Addl. Govt. Pleader for the Respondent Nos. 1, 7 and 8.

Mr. A.A. Joshi for Respondent Nos. 2 - 4.

CORAM : S.K. SHAH, J.

DATED : 15.9.2005.

P.C.

1. Heard.

2. The Petitioner is the Co-operative Housing Society. The Respondent Nos. 2 to 4 are the Members of the Society. The office bearers of the Petitioner -society had called a Special General meeting on 29th February, 2004 by notice dated 21st November, 2004. The Item No.10 on the Agenda was "to appoint repair committee and inform the progress regarding major repairs". The Special General Meeting was attended by 25 Members. With regard to the Item No.10 on the Agenda, certain decisions were taken including Clauses - [B] and [C] as per para-12 of

the minutes of the said Special General Meeting. Even though, item No.10 on the Agenda, about the decision, which was taken at the instance of the Secretary and the Members of the Managing Committee, was with regard to the financial implications, which were to the tune of Rs. 51 lakhs and the decision was also taken to ask for the contribution of Rs.1 lakh from each of the Members.

3. The Respondent Nos. 2, 3 and 4 had made a complaint in that regard amongst other things to the Deputy Registrar of Co-operative Societies. Pursuant to the complaint, the Deputy Registrar had issued a show-cause notice under Section 78 of the Maharashtra Co-operative Housing Societies Act, 1960 ["the Act for short] to the Secretary and other Members of the Managing Committee, thereby asking them to explain on four points including the point regarding the aforesaid decision taken on Item No.10, pointing out that the said decision involving financial implications was taken without the subject being on the Agenda. Twice such explanation was called for by the Deputy Registrar, but the Petitioners failed to give proper explanation. Therefore, the Deputy Registrar passed an order dated 17.10.2004 superseding the Managing Committee of the Petitioners - Society. That decision was challenged by the Petitioners- Society before the higher authorities and lastly before the Co-operation Minister and lost at all the levels. Therefore, they challenged,

in this Petition, the order passed by the Co-operation

Minister on 10th August, 2005, dismissing the Petitioners Revision Application.

4. Learned Counsel for the Petitioner submitted that the proper course for the Authorities was to direct the Respondent Nos. 2 to 4 to approach the Co-operative Court under Section 91 of the Act. It is also submitted that the Respondent authorities had wrongly used their powers conferred under section 78 of the Act.

5. I, however, do not find any merit in the submissions. The complaint that was made to the Deputy Registrar was with regard to the conduct of the meeting and as such under the provisions of Section 78 of the Act, the Deputy Registrar has jurisdiction to entertain the complaint in that regard. The office bearers of the Petitioners - Society failed to rectify the decision taken in the Special General meeting on the subject which was not on the Agenda of that meeting. As such, I do not find any merit in the Petition.

6. Writ Petition stands dismissed.

[S.K. SHAH, J.]